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VIA ECF

November 15, 2011

Honorable E. Thomas Boyle
United States Magistrate Judge
Eastern District of New York
Long Island Federal Courthouse
100 Federal Plaza
Central Islip, New York 11722-4451

RE: Allen v. Devine, et al., No. 09 Civ. 0668 (ADS) (ETB)
Our File No.: 5122/196500

Dear Judge Boyle:

I am writing on behalf of Christopher Devine, who is a defendant, counterclaimant, and third-party plaintiff in the above-referenced case. This letter provides a status report pursuant to Your Honor's Order dated October 27, 2011.

Substitution of the Estate of C. Robert Allen, III

As we noted in our last letter dated October 17, a suggestion of death was filed on behalf of C. Robert Allen, III ("Bob Allen"), plaintiff and counterclaim defendant in this case on March 17, 2011. On June 14, we filed a motion on behalf of Mr. Devine to substitute Grace Allen, in her capacity as executrix of Bob Allen's estate, for Bob Allen as a counterclaim defendant. On June 15, Reed Whittemore, a probate attorney, filed a motion to substitute Bob Allen's estate for Bob Allen as plaintiff. On October 25, Judge Spatt entered a Memorandum of Decision and Order granting the motions to substitute. As of November 15, no attorney has filed a notice of appearance for Grace Allen as executrix or otherwise on behalf of the Bob Allen estate.

Discovery

On February 24, 2011, Your Honor entered a scheduling order, under which all fact discovery would be concluded by August 1, 2011; all expert discovery would be concluded by November 1, 2011; first steps in the

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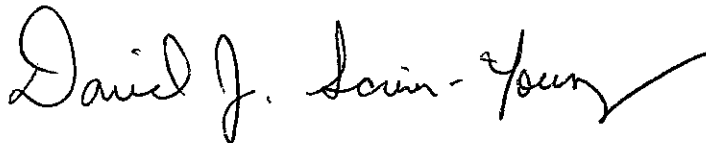
dispositive motion process would be taken by January 20, 2012; and a final conference would take place on February 7, 2012. Prior to Bob Allen's death, the parties had substantially completed written discovery, although certain disputes remained concerning Bob Allen's document production, as well as the document production of Bob Allen's former counsel, Arnold & Porter LLP. The parties have not taken any depositions, and they have not conducted any expert discovery.

Third-Party Motion Practice

On December 20, 2010, Mr. Devine filed a Third-Party Complaint against Luke Allen alleging contribution, tortious interference with business expectancy, and civil conspiracy causes of action. On May 2, 2011, Luke Allen's counsel filed a Motion to Dismiss the Third-Party Complaint. On June 3, 2011, we filed a response in opposition on behalf of Mr. Devine, and on June 24, 2011, Luke Allen's counsel filed a reply brief. The motion has been fully briefed by the parties.

We are available at Your Honor's convenience to further discuss these issues.

Respectfully submitted,

A handwritten signature in black ink that reads "David J. Scriven-Young". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

David J. Scriven-Young

350780

cc: All counsel of record by ECF